

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

2009 MAR 24 PM 12:33

C. Hunsford
DEPUTY CLERK

UNITED STATES OF AMERICA,
ex rel. CHARLES REHBERG,
JOHN BAGNATO, M.D. AND
ALAN MOREE,

Plaintiffs,

v.

PHOEBE PUTNEY HEALTH SYSTEMS, INC.;
PHOEBE PUTNEY MEMORIAL
HOSPITAL, INC.;
LAMAR MOREE, M.D.,
ALBANY ANESTHESIA, and
JOHN DOES 1 THROUGH 100,
Defendants.

FILED IN CAMERA
AND UNDER SEAL

Case No. 1:04-CV-162(WLS)

**THE GOVERNMENT'S NOTICE OF ELECTION TO
DECLINE INTERVENTION**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id. Therefore, the United States requests that, should either the relators or any of the defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts and to intervene in this action, for good cause, at a later date. The United States also requests that it be served with all notices of appeal.

Finally, the Government requests that the relators' Complaint, First Amended Complaint, Second Amended Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Respectfully submitted,

MICHAEL F. HERTZ
Acting Assistant Attorney General

MAXWELL WOOD
United States Attorney
Middle District of Georgia



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Dated: March 24, 2009

CERTIFICATE OF SERVICE

I, Marie V. Bonkowski, hereby declare that I have sent a copy of The Government's Notice of Election to Decline Intervention and the accompanying proposed order by first-class mail on March 24, 2009 to the following counsel for the relator:

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